



RULE-MAKING ORDER

PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

Agency: State Board of Health

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) 01/01/2022 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Chapter 246-290 WAC, Group A public water supplies. The State Board of Health has amended this chapter to include requirements regarding per- and polyfluoroalkyl substances (PFAS), federally unregulated contaminants. The rule establishes the administrative processes for setting drinking water quality standards as state action levels (SAL) and state maximum contaminant levels (MCLs). The rule establishes SALs for five PFAS contaminants: perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and perfluorobutane sulfonic acid (PFBS). The rule requires Group A community and nontransient noncommunity public water systems to test for PFAS. For those Group A water systems that have detections of PFAS, but do not exceed the SAL, the rule requires additional ongoing monitoring, with the frequency of monitoring based upon the detected level in comparison to the SAL. It also establishes reporting, recordkeeping, and consumer confidence report requirements. For those Group A water systems that exceed the SAL, the rule requires follow-up actions such as monitoring, public notification, additional recordkeeping, and reporting requirements.

Citation of rules affected by this order:

New: WAC 246-290-315

Repealed: None

Amended: WAC 246-290-001 WAC 246-290-010 WAC 246-290-050 WAC 246-290-100 WAC 246-290-107 WAC 246-290-130 WAC 246-290-300 WAC 246-290-310 WAC 246-290-320 WAC 246-290-415 WAC 246-290-453 WAC 246-290-455 WAC 246-290-480 WAC 246-290-490 WAC 246-290-630 WAC 246-290-638 WAC 246-290-654 WAC 246-290-660 WAC 246-290-686 WAC 246-290-71002 WAC 246-290-71004 WAC 246-290-71006 WAC 246-290-72001 WAC 246-290-72004 WAC 246-290-72005 WAC 246-290-72012 WAC 246-290-810

Suspended: None

Statutory authority for adoption: RCW 43.20.050

Other authority: RCW 70A.125.080; RCW 70A.130.010

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 21-16-095 on 08/03/2021 (date).

Describe any changes other than editing from proposed to adopted version: WAC 246-290-010(44) is amended for clarity: "Confirmation" means to demonstrate that the result of a sample accurately represents the original sample result by analyzing another sample from the same location within a reasonable given period of time."

WAC 246-290-010(170) is amended to add a reference to RCW 70A.350.010(8) for clarity:

"(170) "PFAS" means per- and polyfluoroalkyl substances, a group of man-made chemicals found in products such as aqueous film-forming foam used to suppress petroleum-based fires, nonstick cookware, stain-resistant fabrics and many other products and as defined in RCW 70A.350.010(8)."

WAC 246-290-130(4)(g)(vi) is amended to provide cross references:

"Contaminants with a SAL as required under WAC 246-290-300(10), except where waived or not applicable under WAC 246-290-300(10)(h)."

WAC 246-290-300(10)(b) is amended to clarify which analytes are required:

"Purveyors shall monitor for PFAS contaminants using an approved method in WAC 246-390-075(17)(a) and all method specific contaminants as listed on Table 7 in WAC 246-390-075."

WAC 246-290-455(2) Operation of chemical contaminant treatment facilities is amended to provide clarity:

"Purveyors that treat to remove, or blend to reduce, a contaminant that exceeds the SAL, shall..."

WAC 246-290-71006. [Now titled] Public notification for contaminants with a SAL is amended to:
Remove "DCPA acid metabolites" from Table 17, in this section. This was a drafting error.

WAC 246-290-72004(5) Report contents - Definitions is amended to make the definition consistent with WAC 246-290-010(44):

"State action level (SAL) means the concentration of a contaminant or group of contaminants, without an MCL, in drinking water established to protect public health and which, if exceeded, triggers actions a water system purveyor must take."

WAC 246-290-72012 Regulated contaminants is amended to:

Remove the last sentence in the table for PFOA, PFOS, PFNA, and PFHxS that says, "When water levels of [respective PFAS] are much higher than the SAL, shorter period of exposure are of concern."

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Other: NA

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

New	<u>1</u>	Amended	<u>27</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>1</u>	Amended	<u>27</u>	Repealed	<u>0</u>

Date Adopted:

Name: Michelle A. Davis

Title: Executive Director

Signature:

Place signature here